HOUSE BILL 601

P2, C5 7lr0968
CF SB 248

By: **Delegates Kramer, Aumann, Barkley, Branch, Carey, Chang, Cullison, Fennell, Fraser–Hidalgo, Frush, Jameson, Krimm, Morales, Stein, Turner, and Valderrama**

Introduced and read first time: January 30, 2017
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 8, 2017

CHAPTER ______

AN ACT concerning

Senior Call–Check Service and Notification Program – Establishment

FOR the purpose of altering the purpose of and programs to be funded by the Universal Service Trust Fund; requiring the Secretary of Information Technology to certify certain information; requiring the Public Service Commission to determine the amount of a certain monthly surcharge; authorizing the Legislative Auditor to conduct certain postaudits for a certain additional purpose; establishing the Senior Call–Check Service and Notification Program; providing a mechanism for the funding of the Program; requiring the Program to be funded at a certain amount based on a certain estimate by the Department of Aging, subject to a certain limitation; specifying that an individual who meets a certain requirement is eligible for the Program; requiring the Department of Aging to establish and maintain the Program and to adopt certain regulations; specifying a sequence of telephone calls and notifications that satisfies Program requirements; authorizing the Department of Aging to contract with a certain private vendor or nonprofit organization to provide a certain service; providing for ~~immunity from civil liability and criminal penalty for entities and individuals participating in~~ the application of the State Tort Claims Act and the Local Government Tort Claims Act to certain persons for certain services under the Program; providing that certain persons may not be liable for certain acts or omissions directly arising from services provided under the Program; defining certain terms; and generally relating to telephone service and the Senior Call–Check Service and Notification Program.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 3A–101 and 3A–501
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 3A–506
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to
Article – State Finance and Procurement
Section 3A–701 and 3A–702 to be under the new subtitle "Subtitle 7. Senior Call–Check Service and Notification Program"
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

3A–101.

(a) In this title the following words have the meanings indicated.

(b) "Department" means the Department of Information Technology.

(c) "Secretary" means the Secretary of Information Technology.

(d) "Telecommunication" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means.

(e) "Unit of State government" means an agency or unit of the Executive Branch of State government.

3A–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Board" means the Governor's Advisory Board for Telecommunications Relay.

(c) "Communications company" means a public service company, as defined in § 1–101 of the Public Utilities Article, or any other company, that provides a communications service.

(d) "Communications service" means:

(1) landline telephone service;

(2) wireless or cellular telephone service; or

(3) Voice over Internet Protocol (VoIP) service, as defined in § 8–601 of the Public Utilities Article.

(e) "Dual party telephone relay program" means a service that provides full and simultaneous communication between a person or persons with a disability that prevents them from using a standard telephone and a person or persons without that disability using conventional telephone equipment or other technology or equipment, whereby the disabled person or persons have their message relayed through an intermediary party using specialized telecommunications equipment.

(f) "Program" means the dual party telephone relay program.

(g) "Program participant" means a resident of the State who uses the dual party telephone relay program.

(h) (1) "Specialized customer telephone equipment" means any communications device that enables or assists a person with a disability to communicate with others by means of the public switched telephone network or Internet protocol–enabled voice communications service.

(2) "Specialized customer telephone equipment" includes:

(i) TDD/TT/TTY;

(ii) amplifiers;

(iii) captioned telephones;

(iv) VRS equipment;

(v) cell phones;

(vi) pagers;

(vii) puff blow devices;

(viii) Braille–TTY devices; and

(ix) equipment for the mobility disabled.

(i) "Telecommunications device for the deaf" or "TDD/TT/TTY" means all types of mechanical devices that enable disabled individuals to communicate through messages sent and received through a telephone or wireless network.

3A–506.

(a) **(1)** **[**The**]** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** programs under § 3A–504(a) of this subtitle and **[**§ 3A–602(a)**]** **§§ 3A–602(A) AND 3A–702** of this title shall be funded as provided in the State budget.

(2) FOR FISCAL YEAR 2019 AND EACH FISCAL YEAR THEREAFTER, THE PROGRAM UNDER § 3A–702 OF THIS TITLE SHALL BE FUNDED AT AN AMOUNT THAT:

(I) IS EQUAL TO THE COST THAT THE DEPARTMENT OF AGING IS EXPECTED TO INCUR FOR THE UPCOMING FISCAL YEAR TO PROVIDE THE SERVICE AND ADMINISTER THE PROGRAM; AND

(II) DOES NOT EXCEED 5 CENTS PER MONTH FOR EACH ACCOUNT OUT OF THE SURCHARGE AMOUNT AUTHORIZED UNDER SUBSECTION (C) OF THIS SECTION.

(b) (1) There is a Universal Service Trust Fund created for the purpose of paying the costs of maintaining and operating the **[**program**]** **PROGRAMS** under**:**

(I) § 3A–504(a) of this subtitle**,** subject to the limitations and controls provided in this subtitle**[**, and the program under**]**;

(II) § 3A–602(a) of this title**,** subject to the limitations and controls provided in Subtitle 6 of this title**; AND**

(III) § 3A–702 OF THIS TITLE, SUBJECT TO THE LIMITATIONS AND CONTROLS PROVIDED IN SUBTITLE 7 OF THIS TITLE.

(2) Money in the Universal Service Trust Fund shall be held in the State Treasury.

(3) Money in the Universal Service Trust Fund may only be used:

(i) to fund the costs of the programs specified in paragraph (1) of this subsection; and

(ii) to pay for the administration of the Universal Service Trust Fund.

(c) (1) The costs of the programs under § 3A–504(a) of this subtitle and [§ 3A–602(a)] **§§ 3A–602(A) AND 3A–702** of this title shall be funded by revenues generated by:

(i) a surcharge to be paid by the subscribers to a communications service; and

(ii) other funds as provided in the State budget.

(2) (i) The surcharge may not exceed 18 cents per month for each account and shall be applied to all current bills rendered for a communications service in the State.

(ii) The surcharge is payable at the time the bills for a communications service are due.

(3) The surcharge to be collected under this section applies only to a communications service for which charges are billed by, or on behalf of, a communications company to a subscriber of the communications service.

(d) (1) The Secretary shall annually certify to the Public Service Commission the costs of the programs under § 3A–504(a) of this subtitle and [§ 3A–602(a)] **§§ 3A–602(A) AND 3A–702** of this title to be paid by the Universal Service Trust Fund for the following fiscal year.

(2) (i) The Public Service Commission shall determine the surcharge for the following fiscal year necessary to fund the programs under § 3A–504(a) of this subtitle and [§ 3A–602(a)] **§§ 3A–602(A) AND 3A–702** of this title.

(ii) 1. In accordance with subsection (c)(2) of this section and subsubparagraph 2 of this subparagraph, the Public Service Commission shall set the surcharge for the following fiscal year at an amount that is no higher than necessary to generate sufficient revenues to fund the costs of the programs for the following fiscal year, as certified under paragraph (1) of this subsection.

2. In setting the surcharge under subsubparagraph 1 of this subparagraph, the Public Service Commission shall take into account whether the surcharge may be adjusted as a result of any uncommitted funds in the Universal Service Trust Fund at the end of the fiscal year that may be used to fund the costs of the programs for the following fiscal year.

(3) The Secretary shall, on 60 days' notice, direct the affected communications companies to add the surcharge determined by the Public Service Commission under paragraph (2) of this subsection to all current bills rendered for communications service in the State.

(e) (1) The affected communications companies shall act as collection agents for the Universal Service Trust Fund and shall remit all proceeds monthly to the Comptroller for deposit to the Universal Service Trust Fund.

(2) The communications companies shall be entitled to credit against these proceeds in an amount equal to 1 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting the surcharge and any additional charges.

(f) (1) The Secretary shall administer the Universal Service Trust Fund.

(2) The income derived from investment of money in the Universal Service Trust Fund shall accrue to the Universal Service Trust Fund.

(3) Any funds remaining at the end of a fiscal year in the Universal Service Trust Fund shall be carried forward within the Universal Service Trust Fund for the maintenance and operation of the programs specified under subsection (b) of this section in the following fiscal year.

(g) (1) The Legislative Auditor may conduct postaudits of a fiscal and compliance nature of the Universal Service Trust Fund and the expenditures made for purposes of § 3A–504(a) of this subtitle and **[**§ 3A–602(a)**]** **§§ 3A–602(A) AND 3A–702** of this title.

(2) The cost of the fiscal portion of the postaudit examination shall be paid from the Universal Service Trust Fund as an administrative cost.

SUBTITLE 7. SENIOR CALL–CHECK SERVICE AND NOTIFICATION PROGRAM.

3A–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ELIGIBLE PARTICIPANT" MEANS A RESIDENT OF THE STATE WHO IS AT LEAST 65 YEARS OLD.

(C) "PERSON OF RECORD" INCLUDES A LOCAL LAW ENFORCEMENT UNIT OR OTHER LOCAL GOVERNMENT AGENCY THAT CHOOSES TO PARTICIPATE IN THE PROGRAM.

(D) "PROGRAM" MEANS THE SENIOR CALL–CHECK SERVICE AND NOTIFICATION PROGRAM.

(E) (1) "SENIOR CALL–CHECK SERVICE AND NOTIFICATION" MEANS A TELEPHONE CALL MADE OR RECEIVED EACH DAY AT A REGULARLY SCHEDULED TIME BY THE DEPARTMENT OF AGING OR THE DEPARTMENT OF AGING'S DESIGNEE

TO THE RESIDENCE OF AN ELIGIBLE PARTICIPANT TO VERIFY THAT THE PARTICIPANT IS ABLE TO RECEIVE NOTIFICATIONS AND ANSWER THE TELEPHONE OR PLACE A CALL FROM THE TELEPHONE.

(2) "SENIOR CALL–CHECK SERVICE AND NOTIFICATION" INCLUDES:

(I) AN AUTOMATED OR LIVE TELEPHONE CALL PLACED BY AN ELIGIBLE PARTICIPANT OR RECEIVED BY AN ELIGIBLE PARTICIPANT AT A REGULARLY SCHEDULED TIME EACH DAY;

(II) IF THE ELIGIBLE PARTICIPANT DOES NOT ANSWER OR PLACE THE REGULARLY SCHEDULED CALL AND THE SECRETARY OF AGING DESIGNS THE PROGRAM TO REQUIRE THIS ACTION, ONE OR MORE AUTOMATED OR LIVE TELEPHONE CALLS TO THE ELIGIBLE PARTICIPANT;

(III) IF THE ELIGIBLE PARTICIPANT DOES NOT ANSWER A TELEPHONE CALL MADE UNDER ITEM (II) OF THIS PARAGRAPH, AN ADDITIONAL AUTOMATED OR LIVE TELEPHONE CALL TO NOTIFY A PERSON OF RECORD WHOSE NAME HAS BEEN PROVIDED TO THE DEPARTMENT OF AGING; AND

(IV) A NOTIFICATION TO THE ELIGIBLE PARTICIPANT REGARDING INFORMATION THAT THE SECRETARY OF AGING HAS DETERMINED TO BE RELEVANT.

3A–702.

(A) THE DEPARTMENT OF AGING SHALL:

(1) ESTABLISH AND ADMINISTER THE PROGRAM TO PROVIDE SENIOR CALL–CHECK SERVICE AND NOTIFICATION TO ELIGIBLE PARTICIPANTS; AND

(2) ADOPT REGULATIONS NECESSARY TO IMPLEMENT THE PROGRAM.

(B) THE DEPARTMENT OF AGING MAY CONTRACT WITH A PRIVATE VENDOR OR NONPROFIT ORGANIZATION TO PROVIDE THE SENIOR CALL–CHECK SERVICE AND NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

~~**(C) (1) ALL INDIVIDUALS AND ENTITIES INVOLVED IN ADMINISTERING THE PROGRAM SHALL BE IMMUNE FROM LIABILITY OR CRIMINAL PENALTY FOR THE PERFORMANCE OR NONPERFORMANCE OF THE REQUIREMENTS UNDER THE PROGRAM.**~~

~~**(2) ENTITIES OR INDIVIDUALS THAT ARE IMMUNE FROM CIVIL LIABILITY AND CRIMINAL PENALTY INCLUDE:**~~

~~(I) THE DEPARTMENT OF AGING;~~

~~(II) THE DEPARTMENT OF AGING'S DESIGNEE UNDER SUBSECTION (B) OF THIS SECTION;~~

~~(III) THE PUBLIC SERVICE COMMISSION;~~

~~(IV) A TELEPHONE COMPANY;~~

~~(V) A LOCAL LAW ENFORCEMENT UNIT;~~

~~(VI) A LOCAL GOVERNMENT AGENCY;~~

~~(VII) A PERSON OF RECORD; AND~~

~~(VIII) A VOLUNTEER–BASED ORGANIZATION.~~

(C) (1) THE STATE TORT CLAIMS ACT AND THE LOCAL GOVERNMENT TORT CLAIMS ACT, AS APPROPRIATE, APPLY TO A STATE OR LOCAL UNIT AND TO AN EMPLOYEE OR AGENT OF A STATE OR LOCAL UNIT THAT PARTICIPATES IN THE PROGRAM FOR SERVICES THE UNIT OR PERSON PROVIDES UNDER THE PROGRAM IN ACCORDANCE WITH REGULATIONS OF THE DEPARTMENT OF AGING.

(2) A PERSON OF RECORD AND A VOLUNTEER MAY NOT BE LIABLE FOR REASONABLE ACTS OR OMISSIONS DIRECTLY ARISING FROM SERVICES THE PERSON PROVIDES UNDER THE PROGRAM IN ACCORDANCE WITH REGULATIONS OF THE DEPARTMENT OF AGING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved:

____

Governor.

____

Speaker of the House of Delegates.

____

President of the Senate.